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IN THE
SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1917.

No. 656.

**CHARLES E. RUTHENBERG, ALFRED
WAGENKNECHT, AND CHARLES BAKER,
PLAINTIFFS IN ERROR,**

vs.

THE UNITED STATES OF AMERICA.

**IN ERROR TO THE DISTRICT COURT OF THE UNITED
STATES FOR THE NORTHERN DISTRICT OF OHIO.**

**MEMORANDUM BY PLAINTIFFS IN ERROR OF OBJEC-
TIONS TO MOTION BY THE UNITED STATES TO
ADVANCE.**

JOSEPH W. SHARTS,
Of Counsel for Plaintiffs in Error.



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The plaintiffs in error interpose their objection to the motion filed to advance the cause and to have it heard jointly with others known as the "Selective Draft Law" cases, for the reasons following:

1. This cause was decided in the trial court at the end of July and docketed on August 30, 1917. Copies of the printed record were not placed in

the hands of counsel until less than two weeks ago. Counsel have had no opportunity to prepare such a brief as the cause requires.

2. Fifty-nine points of error were assigned, and counsel earnestly believe that a large number of these should be carefully and thoroughly presented. Among these points of error are: Whether members of a particular political party may be excluded from jury service; whether a jury exclusively of political adversaries of these plaintiffs in error is an impartial jury; whether men of financial interests adverse to the activities of these plaintiffs in error which are involved in the offense charged are an impartial jury; whether a jury of certain counties to the exclusion of other counties is a proper jury of the State and District; whether an indictment may properly be returned by a grand jury without a sworn charge laid before it or any witness sworn and sent before it in the particular matter; whether men may properly be indicted as accessories to a misdemeanor; and many other questions as to due process of law, the proper admission of testimony, etc.

3. The constitutionality of the Draft Act is but one of several constitutional questions raised, and is not mainly relied on. The case, therefore, is different from the others, and we ask a separate hearing for it.

4. Counsel will be unable properly to prepare a brief covering comprehensively all the points relied on in less than three months, and if plaintiffs in error are forced to a hearing with the haste urged by the Department of Justice, it will be equivalent to an *ex parte* proceeding.

5. The case in the trial court was prepared almost entirely by Mr. Morris H. Wolf, of the Ohio bar, who, by the rules of this court, cannot be admitted to practice herein until December 16, 1917, and his personal participation in the hearing of this cause is regarded as most important.

Respectfully submitted,

JOSEPH W. SHARTS,
Of Counsel for Plaintiffs in Error.